

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

7/10

Applicant(s): Oystein IHLE, Terje Einar MICHAELSEN, Berit JOHNE

Group Art Unit: 1645

Serial No.: 09/870,128

Examiner:

Filed: 05/30/2001

RECEIVED

MAR 08 2004

OFFICE OF PETITIONS

For: Methods for Separating Nucleic Acids into Populations

RESPONSE TO "NOTICE TO FILE MISSING PARTS"

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the NOTICE TO FILE MISSING PARTS OF APPLICATION--FILING
DATE GRANTED dated August 3, 2001, Applicant(s) submit(s) herewith the following
documents for appropriate action by the U.S. Patent and Trademark Office:

- ☒ Copy of Notice to File Missing Parts
- ☒ Post card receipt enclosed, evidence for previous filing of executed declaration.
- ☒ Petition for Revival of an application for patent abandoned unintentionally under CFR 1.137(b)
- ☒ Computer readable Sequence Listing and statement under CFR 1.825(b).
- ☒ A check in the amount of \$450 in payment of the application filing fee and late filing fee for oath or declaration surcharge is attached.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4290-4000. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

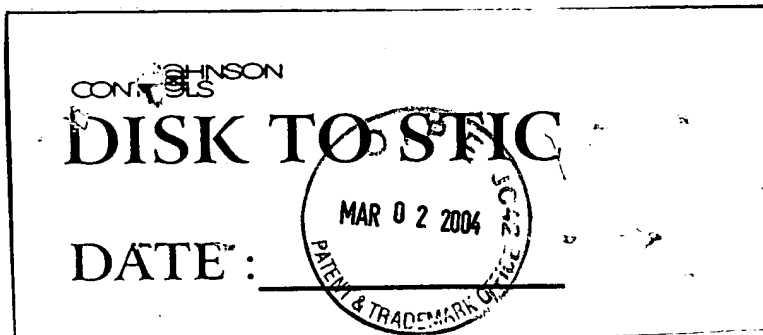
Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 2, 2004

By: Peter G. Foiles
Peter G. Foiles
Registration No. 46,477

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053
(212) 758-4800 Telephone
(212) 751-6849 Facsimile





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MAR 08 2004

Docket No. 4290-4000

**IN THE UNITED STATES DEPARTMENT OF COMMERCE
OFFICE OF PETITIONS AND TRADEMARK OFFICE**

Applicant(s): OYSTEIN IHLE, ET AL.

Group Art Unit: 1645

Serial No.: 09/870,128

Examiner:

Filed: May 30, 2001

For: METHODS FOR SEPARATING NUCLEIC ACIDS INTO POPULATIONS

EXPRESS MAIL CERTIFICATE

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Express Mail Label No.: EV 357803643 US

Date of Deposit: March 2, 2004

I hereby certify that the following attached paper(s) and/or fee

1. RESPONSE TO "NOTICE TO FILE MISSING PARTS" (n duplicate)
2. COPY OF NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION
3. COPY OF RETURN RECEIPT POSTCARD (USPTO Date Stamp Nov. 7, 2002)
4. CHECK \$385 & \$65.00 (\$450.00)
5. PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)
6. STATEMENT IN SUPPORT OF PETITION TO REVIVE UNINTENTIONALLY ABANDONED PATENT APPLICATION
7. CHECK \$665.00
8. STATEMENT UNDER 37 C.F.R. §1.821 OR §1.825
9. SEQUENCE LISTING
10. SEQUENCE LISTING DISKETTE (1)
11. RETURN RECEIPT POSTCARD

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Scholastica Constable

(Typed or printed name of person mailing papers(s) and/or fee)

Scholastica Constable

(Signature of person mailing paper(s) and/or fee)

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.

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(212) 758-4800 Telephone

(212) 751-6849 Facsimile



Case No. 4290-4000 Serial No. TBA
Date Mailed October 31, 2002 ATTY DRA/AL
Date Due in the Patent Office _____

The return of this post card, properly stamped, will
acknowledge receipt in the Patent & Trademark Office
of the following:

- 1.- Certificate of Mailing;
- 2.- Transmittal for Executed Combined Declaration/Power of Attorney;
- 3.- Three Executed Combined Declaration and Power of Attorney (7 pgs. each);
Recordation Form Cover Sheet;
- 3.- Three Executed Assignments (2 pages each);
- 4.- Check in the amount of \$40.00;
- 4.- Supplemental Information Disclosure Statement with attachment providing a concise explanation of
the relevance of enclosed reference;
- 5.- PTO Form 1449;
- 6.- Once cited reference; and
Return Receipt Postcard.





UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/870,128	05/30/2001	Moystein Ihle	697.019US1

21186

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTZ
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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MAR 02 2004

CONFIRMATION NO. 6505

FORMALITIES LETTER



OC00000006378606

MAR 08 2004

Date Mailed: 08/03/2001

OFFICE OF PETITIONS

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 355 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 420.**
- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

03/05/2004 CNGUYEN 00000088 09870128

02 EC:2001
03 FC:2051

385.00 OP
65.00 OP

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): IHLE, Oystein et.al.

Group Art Unit: 1645

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Serial No.: 09/870,128

Examiner:

MAR 08 2004

Filed: May 30, 2001

OFFICE OF PETITIONS

For: Method for Separating Nucleic Acids into Populations

Statement in Support of Petition to Revive Unintentionally Abandoned Patent Application

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

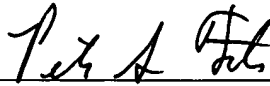
The patent application 09/870,128, "Method for Separating Nucleic Acids into Populations" was filed as a US National Phase application on May 30, 2001 by the firm of Schwegman, Lundberg, Woessner & Kluth. The case was transferred from Schwegman to Morgan & Finnegan, L.L.P.. Morgan & Finnegan accepted the case on July 6, 2001.

On December 15, 2003 we received a "Notice of Acceptance of Power of Attorney" and noted that this Notice was received 16 months after filing of the Revocation and New Power of Attorney. We also noted that it had been 31 months since the case had been filed and we had not yet received a first Office Action. As part of our efforts to determine the status of the application, our Washington D.C. office copied the file on January 26, 2004. It was at this time that we first discovered that a "Notice to File Missing Parts" had been issued by the Patent Office on August 3, 2001 and sent to the firm of Schwegman, Lundberg, Woessner & Kluth. This Notice was never forwarded to Morgan & Finnegan and we did not become aware of this Notice until January 26, 2004. It was also noted that a Notice of Abandonment was not in the file nor, to date, has Morgan & Finnegan received a Notice of Abandonment. Therefore, the entire delay in filing the response to the Notice of Missing Parts was unintentional.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 2, 2004

By: _____



Peter G. Foiles

Registration No. 46,477

(212) 758-4800 Telephone

(212) 751-6849 Facsimile

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345 Park Avenue
New York, NY 10154-0053

MAR 02 2004

3-4-04

19

DAE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number
(Optional)
42904000

First named inventor: Oystein IHLE

Application No.: 09/870,128

Group Art Unit: 1645

Filed: May 30, 2001

Examiner:

Title: METHOD FOR SEPARATING NUCLEIC ACIDS INTO POPULATIONS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

RECEIVED

MAR 08 2004

OFFICE OF PETITIONS

Note: If information or assistance is needed in completing this form, please contact Petitions information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extension(s) of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

Note: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity -fee \$____ 37 CFR 1.17(m))

2. Reply and /or fee

A. The reply and/or fee to the above-noted Office action in the form of Reply to Notice of Missing Parts:

- ☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee of \$_____.

- ☐ has been paid previously on _____
☐ is enclosed herewith.

03/05/2004 CNGUYEN 00000088 09870128

01 FC:2453

665.00 OP

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. **STATEMENT:** The entire delay in filing the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

March 2, 2004
Date


Signature

Telephone
Number: (212) 303-2723

Peter G. Foiles
Registration No. 46,477

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, New York 10154

Enclosures: ☒ Fee Payment- the Commissioner is hereby authorized to charge any deficiencies or to credit any overpayments to Deposit Account No. 13-4500, order no. 4290-4000. A copy of this petition is enclosed.

- ☒ Reply
☐ Terminal Disclaimer Form
☒ Additional sheets containing statements establishing unintentional delay
☒ Check in the amount of \$665.00.
☒ Return Receipt Postcard

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Reg. No.